

# **MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES FOR THE BENEFIT SERVICES DIVISION**

## **ADMINISTRATIVE HEARING PAMPHLET**

This 2019 version updates all previous versions.

This document is neither intended nor shall it be construed as the Michigan Office of Administrative Hearings and Rules (MOAHR) or the Department of Health and Human Services (DHHS) regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the Michigan Office of Administrative Hearings and Rules or the Department of Health and Human Services, or that prescribes the organization, procedure, or practice of the Michigan Office of Administrative Hearings and Rules or the Department of Health and Human Services, including the amendment, suspension, or rescission of the law enforced or administered by MOAHR or DHHS.

### **QUESTIONS**

Questions should be directed to the Michigan Office of Administrative Hearings and Rules for the Department of Health and Human Services, P.O. Box 30763, Lansing, Michigan 48909, or by telephone at 1-800-648-3397 or (517) 335-7519.

## **TABLE OF CONTENTS**

<b>110</b>	<b>Statement and Purpose.....</b>	<b>1</b>
<b>120</b>	<b>Delegation of Authority .....</b>	<b>1</b>
<b>130</b>	<b>Definitions .....</b>	<b>2</b>
<b>200</b>	<b>Grievance System General Requirements for Medicaid Managed Care Beneficiaries .....</b>	<b>7</b>
<b>210</b>	<b>Service Authorization Decisions for Medicaid Managed Care Beneficiaries or Applicants.....</b>	<b>8</b>
<b>300</b>	<b>Notices of Action .....</b>	<b>9</b>
<b>400</b>	<b>Hearing Requests and Deadlines for Hearing Requests .....</b>	<b>14</b>
<b>410</b>	<b>Filing the Request for Hearing.....</b>	<b>17</b>
<b>420</b>	<b>Requests for Expedited Hearings .....</b>	<b>18</b>
<b>430</b>	<b>Processing Hearing Requests .....</b>	<b>18</b>
<b>440</b>	<b>Denial of Request for Hearing .....</b>	<b>19</b>
<b>500</b>	<b>Notice of Hearing.....</b>	<b>20</b>
<b>510</b>	<b>Place of the Hearing .....</b>	<b>20</b>
<b>520</b>	<b>Appearances .....</b>	<b>21</b>
<b>530</b>	<b>Adjournments .....</b>	<b>22</b>
<b>540</b>	<b>New Applications or Requests for Services .....</b>	<b>23</b>
<b>550</b>	<b>Department Representative and Department Contact .....</b>	<b>23</b>
<b>560</b>	<b>Hearing Summary.....</b>	<b>24</b>
<b>570</b>	<b>Pleadings .....</b>	<b>24</b>
<b>580</b>	<b>Withdrawal .....</b>	<b>25</b>
<b>590</b>	<b>Dismissal.....</b>	<b>26</b>
<b>600</b>	<b>Local Level Appeals (Medicaid Managed Care &amp; PACE) .....</b>	<b>26</b>
<b>610</b>	<b>Women, Infants, and Children (WIC) Participant Local Hearings .....</b>	<b>27</b>
<b>700</b>	<b>Proceedings Prior To Hearing .....</b>	<b>27</b>
<b>800</b>	<b>Subpoenas .....</b>	<b>28</b>

<b>810</b>	<b>Motions.....</b>	<b>29</b>
<b>820</b>	<b>The Hearing.....</b>	<b>30</b>
<b>900</b>	<b>ALJ Decisions.....</b>	<b>32</b>
<b>910</b>	<b>Proposals for Decision.....</b>	<b>33</b>
<b>920</b>	<b>Final Decision and Order .....</b>	<b>34</b>
<b>1000</b>	<b>Computation of Time.....</b>	<b>34</b>
<b>1010</b>	<b>Certification of Compliance with the Judge’s Order .....</b>	<b>34</b>
<b>1020</b>	<b>Rehearing/Reconsideration .....</b>	<b>35</b>
<b>1100</b>	<b>List of Exhibits.....</b>	<b>37</b>
<b>1120</b>	<b>How to Obtain Forms .....</b>	<b>37</b>

## 100 How to Contact MOAHR/DHHS

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E-Mail: [mahsinfo@michigan.gov](mailto:mahsinfo@michigan.gov)

## 110 Statement and Purpose

The Michigan Office of Administrative Hearings and Rules (MOAHR) for the Department of Health and Human Services (DHHS) hears a wide variety of appeals of administrative decisions from DHHS and DHHS contract agencies. The Administrative Law Judges (ALJ) of MOAHR for DHHS are delegated by the Director of DHHS to hold hearings in accordance with the Administrative Procedures Act, the Social Welfare Act, the Public Health Code, Mental Health Code, the Administrative Code, Social Security Act and its regulations and/or other federal codes.

The information contained in this transmittal is intended to provide information regarding the hearings process and to provide as much uniformity of practice and procedures as current laws and regulations permit. It is to be used to provide information regarding the relevant laws and regulations, not in place of them.

## 120 Delegation of Authority

The DHHS Director has appointed the ALJs of MOAHR for DHHS the authority to hear and issue final decisions in contested cases requested by individual residents, patients, consumers, or beneficiaries. The delegation of final decision authority applies to, contested cases held under MCL 330.1236, 330.1238, 330.1407, 330.1536 MCL 400.9, MCL 400.112g MCL 500.287, MCL 333.12613, MCL 400.112g, 7 CFR 246.1 et seq., 42 CFR 431.200 et seq., and Michigan Administrative Code 330.2052. The delegation to issue proposals for final decisions applies to, but is not limited to, contested case held under MCL 400.111c (1) (b).

If the DHHS Director issues a summary suspension of payments to a Medicaid provider under MCL 400.111f(5), and the emergency action is based upon any one of the circumstances described in subsection 111f(1)(a) – (h), the ALJ for

DHHS has the authority to conduct the hearing and issue a final decision on the summary suspension and order based on a determination whether any of the circumstances in subsection 111f(1)(a) – (h) are supported by competent, material, and substantial evidence on the whole record. If the DHHS Director issues a summary suspension of a provider from participation in the Medicaid program or a summary suspension of payments that is based on circumstances that are not described in subsection 111f (a) – (h), the administrative law judge shall issue a proposal for decision.

ALJs have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulation, or overrule or make exceptions to Department policy.

## 130 Definitions

### **Action:**

- Ø Termination, suspension, reduction or denial of Medicaid eligibility or covered services. It also means determinations by skilled nursing facilities and nursing facilities to transfer or discharge residents and adverse determinations made by a State with regard to the preadmission screening and annual resident review requirements of section 1919(e)(7) of the Social Security Act;
- Ø **For Medicaid Recipients of Managed Care Organizations (MCO) or Prepaid Inpatient Health Plans (PIHP):** A decision that adversely impacts a Medicaid beneficiary's claim for services due to:
  - Denial or limited authorization of a requested service, including the type or level of service.
  - Reduction, suspension, or termination of a previously authorized service.
  - Denial, in whole or in part, of payment for a service.
  - Failure to make a standard authorization decision and provide notice about the decision with **14 calendar days** from the date of receipt of a standard request for service.
  - Failure to make an expedited authorization decision within **three (3) working days** from the date of receipt of a request for expedited service authorization.
  - Failure to provide services within **14 calendar days** of the start date agreed upon during the person-centered planning and as authorized by the

PIHP/MCO.

- Failure of the PIHP/MCO to act within **45 calendar days** from the date of a request for standard appeal.
- Failure of the PIHP/MCO to act within **three (3) working days** from the date of a request for an expedited appeal.
- Failure of the PIHP/MCO to provide disposition and notice of a local grievance/complaint within **60 calendar days** of the date of the request.

**Additional Mental Health Services:** Supports and services available to Medicaid beneficiaries who meet the criteria for specialty services and supports, under the authority of Section 1915(b)(3) of the Social Security Act. Also referred to as “**B3**” waiver services.

**Adequate Notice of Action:** Written statement advising the beneficiary of a decision to deny or limit authorization of Medicaid **services requested**. Notice is provided to the Medicaid beneficiary **on the same date** the action takes effect, or at the time of the signing of the individual plan of services/supports.

**Administrative Hearing:** An impartial review of a decision made by the DHHS or one of its contract agencies presided over by a MOAHR/DHHS Administrative Law Judge.

**Administrative Law Judge (ALJ):** A person designated by MOAHR/DHHS to conduct hearings in an impartial and unbiased manner.

**Advance Notice of Action:** Written statement advising the beneficiary of a decision to reduce, suspend or terminate Medicaid services **currently provided**. Notice to be provided/mailed to the Medicaid beneficiary at least **12 calendar days prior** to the proposed date the action is to take effect.

**Adverse Action:** Includes but is not limited to:

**Women, Infants, and Children Program (WIC):**

- (i) Denial of the vendor’s application for authorization based on the vendor selection criteria for competitive price or for minimum variety and quantity of authorized supplement foods or on a determination that the vendor is attempting to circumvent a sanction.
- (ii) Termination of an agreement for cause.
- (iii) Disqualification from the WIC program.
- (iv) Imposition of a fine or civil money penalty in lieu of disqualification.

**Medicaid Provider:**

- (i) A suspension or termination of provider participation in the medical assistance program.
- (ii) A denial of an applicant's request for participation in the medical assistance program.
- (iii) A denial, revocation, or suspension of a license or certification issued by the Department to allow a facility to operate.
- (iv) The reduction, suspension, or adjustment of provider payments.
- (v) Retroactive adjustments following the audit or review and determination of the daily reimbursement rates for institutional providers.

**Healthy Michigan Plan:**

A discontinuation, termination, suspension or reduction of Healthy Michigan Plan (HMP) benefits.

**Adverse Determination:** A determination made in accordance with sections 1919(b)(3)(F) or 1919(e)(7) of the Social Security Act that the individual does not require the level of services provided by the nursing facility or that the individual does or does not require specialized services.

**Appeal:** Request for a review of an "action."

**Appellant:** A beneficiary, resident, patient, consumer or responsible party requesting a hearing.

**Authorization of Services:** The processing of requests for initial and continuing service delivery.

**Authorized Hearing Representative (AHR):** - A person, legally designated, to stand in for, or represent the Appellant in the hearing process.

**Beneficiary:** An individual who has been determined eligible for Medicaid.

**Contested Case:** A proceeding under the Michigan Administrative Procedures Act in which a determination of the legal rights, duties, or privileges of a named party is required by law to be made by an agency after an opportunity for an evidentiary hearing.

**Date of Action:** The date on which a termination, suspension, reduction, transfer or discharge become effective. It also means the date of the determination made by a State with regard to the preadmission screening and annual resident review (PASARR) requirements of section 1919(e)(7) of the Act.

**DHHS Contract Agency:** Any agency or organization that has contracted with the Department that either determines eligibility for a Department program, or delivers a service provided under a Department program to a beneficiary, patient, or resident.

**Department Contact:** The individual in a substantive area identified as responsible for the decision for which the hearing is being held.

**Department Representative:** A DHHS or DHHS Contracted Agency staff person assigned to serve as the liaison between the agency or DHHS organization and the MOAHR for DHHS.

**Expedited Hearing:** A hearing that is held within three (3) workdays after receipt of hearing request because a delay in conducting the hearing would seriously jeopardize the life or health of the Medicaid beneficiary or would jeopardize his/her ability to attain, maintain or regain maximum function.

**Expedited Local Appeal:** The expeditious review of an action, requested by a managed care beneficiary or the beneficiary's provider when the time necessary for the normal appeal review process could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function. If the beneficiary requests the expedited review, the PIHP/MCO determines if the request is warranted. If the beneficiary's provider makes the request, or supports the beneficiary's request, the PIHP/MCO must grant the request.

**Fair Hearing:** An impartial review of a decision made by DHHS or one of its contract agencies presided over by a MOAHR/DHHS ALJ.

**Final Determination Notice:** A notice of an adverse action for Medicaid enrolled providers which includes the action to be taken; the date of the proposed action; the reason for the action; the statute, rule, or guideline under which the action is taken; and the right to a hearing.

**Grievance:** Medicaid beneficiary's expression of dissatisfaction about PIHP/MCO service issues, **other than an action**. Possible subjects for grievances included, but are not limited to, quality of care or services provided and aspects of interpersonal relationships between a service provider and the beneficiary.



**Grievance Process:** Impartial local level review of Medicaid beneficiary's grievance (expression of dissatisfaction) about PIHP/CHMSP/MCO service issues **other than an action**.

**Grievance System:** Federal terminology for the overall local system of grievance and appeals required for Medicaid beneficiaries in the managed care context, including access to the state fair hearing process.

**HIPAA:** Health Insurance Portability and Accountability Act.

**Local Appeal Process:** Impartial local level PIHP/MCO review of a Medicaid beneficiary's appeal of an action presided over by individuals not involved with decision-making or previous level of review.

**Managed Care Organization (MCO):** An entity that has, or is seeking to qualify for a comprehensive risk contract under this part, and that is:

- (1) A Federally qualified HMO that meets the advance directive requirements of subpart I of part 489 of this chapter; or
- (2) Any public or private entity that meets the advance directives requirements and is determined to also meet the following conditions:
  - (i) Makes the services it provides to its Medicaid enrollees as accessible (in terms of timeliness, amount, duration, and scope) as those services are to other Medicaid recipients within the area served by the entity.
  - (ii) Meets the solvency standards of §438.116.

*42 CFR 438.2*

**Medicaid Services:** Services provided to a beneficiary under the authority of the Medicaid State Plan, Habilitation Services and Supports waiver, Children's Waiver, MIChoice Waiver and/or Section 1915(b)(3) of the Social Security Act.

**Mental Health Financial:** the ability of a responsible party to pay for the cost of mental health services.

**Mental Health Transfer:** a resident in a state facility may be transferred to any other center, or to a hospital operated by the Department, if the transfer would not be detrimental to the resident and the responsible community mental health

services program approves the transfer.

**Notice of Disposition:** Written statement of the PIHP/MCO decision for each local appeal and/or grievance provided to the beneficiary.

**Program of all-inclusive care for the elderly (PACE):** Provides pre-paid, capitated comprehensive health care services to frail, older adults.

**Prepaid Inpatient Health Plan (PIHP) –** An entity that:

1. Provides medical services to enrollees under contract with the State agency, and on the basis of prepaid capitation payments, or other payment arrangements that do not use the State plan payment rates;
2. Provides, arranged for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its enrollees; and
3. Does not have a comprehensive risk contract.

## 200 Grievance System General Requirements for Medicaid Managed Care Beneficiaries

Federal regulations (42 CFR 438.200 *et seq.*) requires the state to ensure through its contracts with PIHP/MCOs, that each PIHP/MCO has an overall grievance system in place for Medicaid beneficiaries that complies with Subpart F of Part 438.

The grievance system must provide Medicaid beneficiaries:

- A local PIHP/MCO appeal process for challenging an “action” taken by the PIHP/MCO or one of its agents.
- Access to the state level fair hearing process for an appeal of an “action”.
- A local PIHP/MCO grievance process for expressions of dissatisfaction about any matter other than those that meet the definition of an “action”.
- The right to **concurrently** file a PIHP/MCO level appeal of an action, **and** request a State fair hearing on an action, **and** file a PIHP/MCO level grievance regarding other services complaints.
- The right to request a State fair hearing **before exhausting** the PIHP/MCO level appeal of an “action”.
- The right to request, and have, Medicaid benefit continued while a local PIHP/MCO appeal and/or State fair hearing is pending.
- The right to have a provider, acting on the beneficiary’s behalf and with the beneficiary’s written consent, file an

appeal to the PIHP/MCO. The provider may file a grievance or request for a State fair hearing on behalf of the beneficiary **only if** the State permits the provider to act as the beneficiary's authorized representative in doing so.

## 210 Service Authorization Decisions for Medicaid Managed Care Beneficiaries or Applicants

When a Medicaid service authorization is processed (initial request or continuation of service delivery) the PIHP/MCO **must provide** the beneficiary a written service authorization decision within specified timeframes and as expeditiously as the beneficiary's health condition requires. The service authorization must meet the requirements for either **standard** authorization or **expedited** authorization:

**Standard Authorization:** Notice of the authorization decision must be provided as expeditiously as the beneficiary's health condition requires, and **no later than 14 calendar days** following receipt of a request for service, with a possible extension of **14 additional calendar days** if the beneficiary or provider requests an extension **OR** if the PIHP/MCO justifies (to the state agency upon request) a need for additional information and how the extension is in the beneficiary's interest.

- **Expedited Authorization:** In cases in which a provider indicates, or the PIHP/MCO determines, that following the standard timeframe could seriously jeopardize the beneficiary's life or health or ability to attain, maintain or regain maximum function, the PIHP/MCO must make an expedited authorization decision and provide notice of the decision as expeditiously as the beneficiary's health condition requires, and **no later than three (3) working days** after receipt of the request for service.

If the beneficiary requests an extension, or if the PIHP/MCO justifies (to the State agency upon request) a need for additional information and how the extension is in the beneficiary's interest; the PIHP/MCO may extend the three working day time period by up to **14 calendar days**.

When a **standard or expedited** authorization of services decision is extended, the PIHP/MCO must give the beneficiary written notice of the reason for the decision to extend the timeframe, and inform the beneficiary of the right to file an

appeal if he or she disagrees with that decision. The PIHP/MCO must issue and carry out its determination as expeditiously as the enrollee's beneficiary's health condition requires and no later than the date the extension expires.

## 300 Notices of Action

### **A. Medicaid beneficiaries (including PACE Enrollees)**

There are two (2) types of Notice of Action:

#### **Adequate notice and Advance notice**

Adequate notices are sent on the effective date of the action. An adequate notice is used for a denial of requested service or a denial of a new authorization.

Advance notice must be mailed at least 12 days before the proposed effective date. An advance notice is used for termination, suspension, or reduction of a Medicaid service. A DHHS-0092, Hearing Request Form (Exhibit I) or its equivalent shall be sent to the appellant with all adequate and advance notices.

The client must be sent a written notice at the time of **each "action"**.

1. An adequate notice must contain:

- A statement of what action is being taken by the DHHS or any contract agency or nursing facility;
- The reasons for the intended action;
- The specific regulations that support the action;
- Explanation of the individual's right to request a fair hearing and instructions for doing so;
- An explanation that the beneficiary may represent himself/herself or use legal counsel, a relative, a friend or other spokesperson.

2. An advance notice must also contain:

- The circumstances under which services will be continued pending resolution of the appeal;
- How to request that benefit be continued; and
- The circumstances under which the beneficiary may be required to pay the costs of these services.

3. Limited exceptions to the advance notice requirement.

The DHHS/DHHS contract agent may mail an adequate notice of action, not later than the date of action to terminate, suspend or reduce previously authorized services, **IF:**

- The DHHS/DHHS contract agent has factual information confirming the death of the beneficiary.
- The DHHS/DHHS contract agent receives a clear written statement signed by the beneficiary that he/she no longer wishes services or gives information that requires termination or reduction of services and indicates that he/she understands that this must be the result of supplying that information.
- The beneficiary has been admitted to an institution where he/she is ineligible under Medicaid for further services.
- The beneficiary's whereabouts are unknown and the post office returns DHHS/DHHS contract agent mail directed to him/her indicating no forwarding address.
- The DHHS/DHHS contract agent establishes the fact that the beneficiary has been accepted for Medicaid services by another local jurisdiction, State, territory or commonwealth.
- A change in the level of medical care is prescribed by the beneficiary's physician.
- The date of the action will occur in less than **12 calendar days**.

4. Medicaid services are to be continued during the pendency of the State fair hearing **if:**

- The beneficiary specifically requests to have the services continued, and
- The beneficiary files the appeal within 12 days of the date on the notice, and
- The appeal involves the termination, suspension or reduction of a previously authorized service, and
- The original period covered by the original authorization has not expired.

5. Medicaid services are continued or reinstated while an appeal is pending, the services must be continued until one of the following occurs:

- The beneficiary withdraws the appeal.
- An Administrative Law Judge orders a decision which is adverse to the beneficiary.
- The time period or service limits of the previously authorized service has been met.

**Exception:** Do not provide a notice when you are implementing a hearing decision or a policy hearing authority decision. The hearing decision serves as notice of the action.

## **B. Medicaid Managed Care Beneficiaries Notice State Fair Hearings**

Medicaid beneficiaries served by PIHP/MCOs have additional rights provided by federal regulations at 42 CFR 438 et seq.

**The content of both adequate and advance notices must include an explanation of:**

- What action the PIHP/MCO has taken or intends to take.
- The reason(s) for the action.
- 42 CFR 440.230(d) is the basic legal authority for an action to place appropriate limits on a service based on such criteria as medical necessity or on utilization control procedures.
- The beneficiary's or provider's right to file a PIHP/MCO appeal, and instructions for doing so.
- The beneficiary's right to request a State fair hearing, and instructions for doing so.
- The circumstances under which expedited resolution can be requested, and instructions for doing so,
- An explanation that the beneficiary may represent himself/herself or use legal counsel, a relative, a friend or other spokesperson.

**The content of an advance notice must also include an explanation of:**

- The circumstances under which services will be continued pending resolution of the appeal,
- How to request that benefit be continued, and

- The circumstances under which the beneficiary may be required to repay the costs of these services.

And:

- The notice of action to the beneficiary must be in writing and meet language format needs of the individual to understand the content (i.e. the format meets the needs of those with limited English proficiency and or limited reading proficiency).
- The requesting provider, in addition to the beneficiary, must be provided notice of any decision by the PIHP/MCO to deny a service authorization request or to authorize a service in an amount, duration or scope that is less than requested. The notice of action to the provider is not required to be in writing.

#### **Service Authorization decisions will:**

Constitute an “**action**” if the service authorized is less in amount, duration or scope than requested or less than currently authorized, or the service authorization is not made timely. In these situations, the PIHP/MCO **must** provide a notice of action containing additional information to inform the beneficiary of the basis for the action the PIHP/MCO has taken, or intends to take and the process available to appeal the decision.

#### **Notices must be mailed:**

- **At least 12 calendar days before** the date of an action to terminate, suspend or reduce previously authorized Medicaid covered service(s) (Advance).
- **At the time of the decision** to deny payment for a service to deny a newly requested service (Adequate).
- **Within 14 calendar days** of the request for standard service authorization decision to deny

or limit services (Adequate).

- **Within three (3) working days** of the request for an expedited service authorization decision to deny or limit services (Adequate).

**C. Pre-Admission Screening and Annual Resident Review (PASARR, also known as OBRA)**

Notices of actions or adverse determinations for PASARR recipients **also** must comply with the following notice requirements:

- Is a nursing facility level of services needed?
- Are specialized services needed?
- The placement options that are available to the individual consistent with these determinations; and
- The rights of the individual to appeal the determination.

**D. Healthy Michigan Plan**

There are two types of written notices – **timely and adequate**.

- **Timely Notice**

A timely notice is mailed with the proposed change at least ten days before the action would become effective.

- **Adequate Notice**

An adequate notice is mailed with the proposed change no later than the date upon which the action would become effective.

See Section A (Medicaid Beneficiaries) for Notice Requirements.

**E. Women, Infants, and Children (WIC) Participant**

At the time of a claim against an individual for improperly issued benefits or at the time of participation denial or of disqualification from the Program, DHHS shall inform each individual in writing of the right to a DHHS local level hearing, of the method by which a DHHS local level hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson. Such notification is not required at the expiration of a certification period.



A DHHS local level hearing will be held. The DHHS local level hearing decision must include a notice of the Appellant's right to request a hearing with MOAHR for DHHS, the time limit for requesting a hearing with the MOAHR for the DHHS, and the address and phone number of MOAHR for DHHS.

**F. Women, Infants, and Children (WIC) Vendor**

1. DHHS shall provide to the vendor written notification of the adverse action that includes: (1) the procedures to follow to obtain an administrative hearing; (2) the reasons for the adverse action; (3) the effective date of the adverse action, if applicable.
2. Notification of the adverse action shall be mailed to a vendor at least 21 calendar days in advance of the effective date of action except as provided in Section 200 below for 15-day Termination Orders.
3. The effective date of the termination and permanent disqualification of a vendor as the result of a conviction of the vendor for trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substance Act – 21 USC 802) in exchange for food instruments shall be on the date of receipt of the notice of adverse action by the vendor. A vendor shall not be entitled to receive any compensation for revenues lost as a result of such termination and disqualification.
4. Except as provided in paragraph C above and in Section 7 below, a vendor who has timely appealed an adverse action by the Department may be allowed to remain on the WIC Program until the effective date of the final order or the contract expires, whichever occurs first. An appeal shall not require that the Department enter into a new contract with the vendor after expiration of the current contract.

## **400 Hearing Requests and Deadlines for Hearing Requests**

**A. All Programs**

All requests for a hearing must be in writing. The hearing request should provide the name, address and telephone number of the person for whom the hearing is being requested. The name, address, and telephone



number of the person requesting the hearing, if different, should be included. The benefit or program involved should be clearly identified. The hearing request should identify what decision is being challenged.

The MOAHR and Rules for the DHHS will deny hearing requests signed by unauthorized persons and requests without original signatures.

## **B. Medicaid Beneficiaries and Healthy Michigan Plan Beneficiaries**

The beneficiary or authorized hearing representative has 90 calendar days from the date of the written notice of action to request a hearing. The written hearing request must be received within the 90-day period by the State of Michigan.

## **C. Lead Abatement**

The request for a hearing must be made in writing, no later than 15 working days after receipt of a citation or notice of revocation or suspension of accreditation or certification.

## **D. Medicaid Managed Care Beneficiaries Local Level Appeal**

Medicaid beneficiaries participating in managed care are **NOT** required to exhaust MCO and PIHP level appeals before they request a hearing. Medicaid managed care beneficiaries may process simultaneous appeals.

## **E. Mental Health Transfers**

An appeal of a non-emergency transfer may be made at any time before the transfer. An appeal of an emergency transfer may be made up to seven (7) days after the transfer.

## **F. Mental Health Financial**

The individual or Authorized Hearing Representative may appeal a determination of financial liability made by the Department within 30 days of the date the determination was given or mailed to the individual, spouse, or parent.

## **G. Medicaid Provider**

**This section applies only to Medicaid enrolled providers**

Any provider participating, or applicant wishing to participate in the Medicaid Program may appeal an adverse action taken by the DHHS.

Medicaid provider hearings are governed by Social Welfare Act (MCL 400.1 et seq.) and 1979 AC, R 400.3401 through 400.3425

#### **H. Certificate of Need (CON)**

Certificate of Need hearings are governed by the Public Health Code and 1986 AACCS, R 325.9101 et seq.

A request for a hearing shall be filed within 15 days of the applicant's receipt of the Department's proposed decision or receipt of notice of reversal by the director of a proposed decision that is an approval.

#### **I. Women, Infants, and Children (WIC) Vendor**

##### **Request for Hearing**

1. An appeal is initiated by filing a request for an administrative hearing with the Department. The request shall be addressed to:

Michigan Office of Administrative Hearings and Rules  
for the Department of Health and Human Services  
P.O. Box 30763  
Lansing, MI 48909

2. A request for an administrative hearing shall be made in writing and shall include a statement of the facts asserted, the relief sought, and if the vendor is represented by legal counsel, the name, address and telephone number of the attorney.
3. The Department must receive a request for an administrative hearing within 21 calendar days of the date of mailing of the adverse action notice to the Appellant. Any request for an administrative hearing received later than 21 days after the date of mailing of the adverse action notice is untimely and an administrative hearing will not be conducted.

##### **15-Day Termination Orders**

1. Upon a finding that the vendor has violated its contract, the regulatory or statutory provisions governing the WIC Program or the State Plan of Program Operation and Administration approved by the United States Department of

Agriculture which seriously affect the public health, safety or welfare or the integrity of the WIC Program, the Department may issue an order terminating a vendor's WIC contract effective 15 days from the date of service of the order. The order shall incorporate the Department's findings.

2. Upon issuance of a 15-Day Termination Order, the Department shall provide the vendor with an opportunity for a hearing within five business days after the service of the Order. "Business day" means a day of the year, exclusive of a Saturday, Sunday or a State holiday. The hearing date, time and location shall be specified in the 15-Day Termination Order. Except as modified by this section, the hearing shall be conducted in accordance with these Administrative Hearing Procedures for Vendors.
3. The conduct of a hearing under this section shall not suspend the effectiveness of the Department's 15-Day Termination Order.
4. A 15-Day Termination Order may include sanctions in addition to contract termination, such as disqualification of the vendor from the WIC Program.

#### **J. Women, Infants, and Children (WIC) Participant**

The Appellant may appeal a local-level WIC hearing decision to the MOAHR and Rules for the DHHS, provided that the request for appeal is made within 15 days of the mailing date of the local-level hearing decision notice.

### **410 Filing the Request for Hearing**

#### **All Programs**

All hearing requests should be mailed to:

Michigan Office of Administrative Hearings and Rules  
for the Department of Health and Human Services  
P.O. Box 30763  
Lansing, MI 48909

If a hearing request is received in another location, a copy of the request should immediately be faxed to the Michigan Office of Administrative Hearings and Rules for the Department of Health and Human Services at (517) 335-7519. The original



request should be forwarded to the Michigan Office of Administrative Hearings and Rules for the Department of Health and Human Services within seven (7) days.

## 420 Requests for Expedited Hearings

Expedited hearings may be granted by MOAHR for DHHS. The client, authorized representative or Department may send a written request for an expedited hearing to the: Michigan Office of Administrative Hearings and Rules, P.O. 30763, Lansing, MI 48909.

## 430 Processing Hearing Requests

### **Medicaid Beneficiaries; Mental Health Financial; WIC Participant; Healthy Michigan Plan**

Upon receipt of a hearing request, MOAHR for DHHS will assign a docket number and fax a copy of the hearing request to the Department Representative. The purpose of this fax copy of the hearing request is to alert the Department Representative that a request for hearing has been filed and to allow the Department Representative to begin to prepare for a hearing and/or settle the case.

### **Lead Abatement**

Upon receipt of a hearing request, MOAHR for DHHS will assign a docket number and fax a copy of the hearing request to the Lead Hazard Remediation Program. The Program shall file with MOAHR for DHHS a copy of its notice and/or citation and supporting documentation within 14 days.

### **Medicaid Provider**

Upon receipt of a hearing request, MOAHR for DHHS will assign a docket number and fax a copy of the hearing request to the designated Department Representative. The Appeals Section shall file with MOAHR for DHHS, within 30 days after receipt by the Department of the hearing request, a copy of the final determination notice and supporting documentation.





## **Mental Health Transfer**

Upon receipt of a hearing request, MOAHR for DHHS will assign a docket number and fax a copy of the hearing request to the facility transfer coordinator. The transfer coordinator is responsible for faxing the transfer order and written Community Mental Health approval to MOAHR for DHHS no later than the day before the hearing.

## **Certificate of Need**

Upon receipt of a hearing request, MOAHR for DHHS will assign a docket number and fax a copy of the hearing request to Certificate of Need (CON) Program office. The CON office must file with MOAHR for DHHS a copy of its notice to the Applicant and supporting documentation within 14 days.

## **Women, Infants, and Children (WIC) Vendor**

- A. Following timely receipt of a written request for an administrative hearing, the Department shall provide the vendor with an opportunity for a hearing at the offices of the Michigan Department of Health and Human Services.
- B. Notification of the hearing shall be sent certified mail and shall include: the time and location of the hearing.
- C. The notice of hearing must be mailed at least ten (10) calendar days prior to the scheduled administrative hearing date.

## **440 Denial of Request for Hearing**

### **All Programs**

Only MOAHR for DHHS may deny a request for a hearing. All hearing requests shall be forwarded to MOAHR for DHHS (refer to Section **400** of this policy).

### **Medicaid Beneficiary; Mental Health Financial; Mental Health Transfer; WIC Participant, Healthy Michigan Plan Beneficiaries**

If DHHS or its contract agent believes MOAHR for DHHS has no jurisdiction to hold a hearing, fax or mail a statement to MOAHR for DHHS explaining



what it is believed to be the legal basis for not granting a hearing, MOAHR for DHHS will inform the appellant, the AHR, and the Department Representative.

### **Lead Abatement; Medicaid Provider; Certificate of Need; WIC Vendor**

If you believe a request is inappropriate or if the request was filed beyond the required deadline a motion for a hearing denial may be made. To request a hearing denial:

- Prepare a memorandum stating:
  - Why the request should not be heard; or
  - The request was received after the required deadline for filing a hearing request (attach a copy of the notice); and
- Forward the hearing request and memorandum to the Michigan Office of Administrative Hearings and Rules for the Department of Health and Human Services.
- MOAHR for DHHS will inform the Appellant and Department if the request is denied.

## **500 Notice of Hearing**

### **Medicaid Beneficiary, Providers; Certificate of Need; and Health Systems for hearings required by Sections 20165, 20166, 20168, 21799(10), 21799b (2), and 21799c of the Public Health Code.**

The Notice of Hearing will include a docket number, which is an identifier for each hearing.

Notice of the time, date, and place of hearing shall be mailed to the parties, or their authorized hearing representative.

## **510 Place of the Hearing**

### **Medicaid Beneficiaries; Mental Health Financial; WIC Participant; Healthy Michigan Plan Beneficiaries**

Hearings are routinely scheduled for telephone conference calls. The Administrative Law Judge conducts the hearing from his/her office. The



ALJ will call the Appellant/AHR at the number the Appellant provided on the Hearing Request form.

The Appellant/AHR may request permission of MOAHR for DHHS to appear by phone from another location. The request must be made to MOAHR for DHHS at least one full business day before the hearing.

For Medicaid Beneficiaries and Healthy Michigan Plan Beneficiaries the Appellant/AHR may request that the hearing be conducted in person with the ALJ. The ALJ will travel to the local Department of Health and Human Services office, nursing facility, Community Mental Health Services Program office, Area Agency on Aging office or other identified location on the scheduled hearing date.

**Lead Abatement; Medicaid Provider; Certificate of Need (CON); Health Systems; Women, Infants, and Children (WIC) Vendor**

Hearings are conducted in the hearing rooms of MOAHR in Lansing. Occasionally, MOAHR for DHHS will conduct hearings in other locations at the discretion of MOAHR.

**Mental Health Transfer**

All hearings are conducted by telephone conference call.

**520 Appearances**

**All Programs**

An Appellant may appear on his or her own behalf.

An Appellant may have an attorney appear on his/her behalf. The attorney must file a written Appearance with the MOAHR and Rules for the DHHS at least two (2) days before the scheduled hearing.

DHHS or its contract agencies may appear through designated staff or attorneys.

**Medicaid Beneficiaries and Healthy Michigan Plan Beneficiaries**

An Appellant may be represented by an authorized hearing representative (AHR).

The right to be an AHR comes from one of the following sources:

- Written authorization signed by the appellant, giving a person the authority to act for the appellant in the hearing process,
- Court appointed guardian or conservator,
- Legal parent of a minor child,
- An AHR has no right to a hearing, but rather exercises the appellant's right.

## 530 Adjournments

### **Medicaid Beneficiaries; Medicaid Providers; Mental Health Financial; Mental Health Transfer; WIC Participant; Healthy Michigan Plan Beneficiaries**

The Appellant/AHR or Department may request an adjournment (also called a postponement) of a scheduled hearing for good cause. **Only the MOAHR and Rules for the Department of Health and Human Services can grant or deny a request for an adjournment.**

### **Certificate of Need and Health Systems for hearings required by Sections 20165, 20166, 20168, 21799(10), 21799b(2), and 21799c of the Public Health Code.**

A party may request an adjournment of a scheduled hearing by motion to the ALJ assigned to conduct the hearing. The presiding ALJ will not rule on the motion until the opposing party has an opportunity to be heard on the request. If all parties agree to the adjournment, the ALJ may rule on the request immediately.

### **Women, Infants, and Children (WIC) Vendor**

One opportunity shall be provided to both the Department and the vendor to reschedule the hearing date upon specific request in writing addressed to the ALJ. Any further requests for adjournment of the hearing must be by motion and addressed to the ALJ and shall be granted only upon a showing of good cause. The ALJ shall not rule on the request for adjournment until all parties have had an opportunity to be heard on the request. However, if all parties agree to an adjournment, then the ALJ may be so advised by telephone and may rule on the request immediately.



## 540 New Applications or Requests for Services

### **Medicaid Beneficiaries**

A new application or request for services should not be delayed while a hearing is pending on a previous determination. Process the application or request and notify the beneficiary of your determination, following all Department policies and procedures. Advise the MOAHR and Rules for the DHHS if the new determination makes the previously requested hearing unnecessary.

## 550 Department Representative and Department Contact

Each substantive area or component involved in hearings with the MOAHR and Rules for the DHHS is required to designate a Department Representative.

Hearing requests received by the MOAHR and Rules for the DHHS will be faxed to the Department Representative. If there is a change in date or location, the Department Representative will be contacted. The Department Representative will be sent all notices and orders issued by the MOAHR and Rules for the DHHS.

The purpose of the Department Representative is to serve as a single contact point for the MOAHR and Rules for the DHHS to communicate regarding procedural aspects of any case. The individual presenting the case to the ALJ is the Department Representative. It is their responsibility to ensure the faxes and papers reach the proper persons.

The Department Contact is the individual in a substantive area identified as responsible for the decision for which the hearing is being held. A copy of the decision and order is mailed to the Department Contact. Any problems arising out of the hearings are directed to the Department Contact.

It is the responsibility of the substantive organization to contact the MOAHR and Rules for the DHHS with any changes in Department Representatives and/or Department Contacts and to ensure that the MOAHR and Rules for the DHHS has the proper name of individuals (Department Representative and Department Contact); the correct fax number; phone numbers and addresses for the organization which has taken the action and/or has oversight responsibility for contract agencies.





## 560 Hearing Summary

A Hearing Summary (Exhibit II) or its equivalent shall be prepared for each hearing: Healthy Michigan Plan, Breast & Cervical Cancer Prevention, Beneficiary Monitoring Program, Children's Special Health Care Services (CSHCS), Community Mental Health, Disenrollment, Elderly & Disabled Waiver, Home Help Services, Home Help Provider Hearing, Home Help Recoupment Hearing, Integrated Care for Dual Eligibles, Managed Care Exception, Mental Health Financial, Mental Health Transfer, Medical Services Billing, OBRA/PASARR, Nursing Home Eligibility, Prior Authorization, Prior Authorization for Appellants on CSHCS, PACE, Pharmacy Benefit, Medicaid Health Plan, Special Director Exceptions, TEFRA Hearings, Substance Abuse Services, and Transportation.

The narrative must include all of the following:

- Clear statement of the action and/or decision being appealed, including all programs involved in the action.
- Facts that led to the action, or decision.
- Policy which support the action, or decision.
- Correct address of the Appellant or AHR.
- Description of the documents the DHHS or the DHHS Contract Agency intends to offer as exhibits at the hearing.

A copy of the hearing summary and all documents and records to be used by DHHS or the DHHS Contract Agency at the hearing must be mailed to the Appellant and/or AHR and the MOAHR for DHHS **at least seven (7) calendar days before the scheduled hearing.**

**Appellants and AHR's have the right to review the case record and obtain copies of documents and materials relevant to the hearing.**

## 570 Pleadings

### **Certificate of Need**

All pleadings must comply with 1996 AACCS, R 325.9507 and 950



## **Health Systems**

For hearings required by Sections 20165, 20166, 20168, 21799(10), 21799b(2), and 21799c of the Public Health Code

All pleadings must comply with 1981 AACCS, R 325.21908.  
All answers must comply with 1981 AACCS, R 325.21910

## **Medicaid Providers**

All pleadings must comply with 1979 AC, R 400.3412

## **Women, Infant & Children (WIC) Vendor**

All pleadings must be in writing, and contain the vendor's name and vendor number, if any.

## **580 Withdrawal**

### **Medicaid Beneficiaries; Mental Health Financial; Mental Health Transfers; WIC Participant; Healthy Michigan Plan Beneficiaries; Lead Abatement; WIC Vendor**

At any time before a final decision is issued, an appellant may withdraw its application or request for a hearing. The withdrawal must be in writing or on the record.

Do not ask for a withdrawal that is based on an action you plan to take in the future. If the DHHS/DHHS Contract Agency settles the case before the hearing:

- Notify the MOAHR and Rules for the DHHS that the disputed action has been corrected and that the appellant's concerns have been resolved.

When any issue is still in dispute, do not:

- Suggest that the Appellant or AHR withdraw the request; or
- Mail a withdrawal form to the Appellant or AHR unless requested.

Do not ask for a withdrawal that is based on an action you plan to take in the future.

An Appellant or AHR may agree to withdraw the hearing request at any time during the hearing process. Instruct the Appellant or AHR to fill out the Hearing Request Withdrawal form (DHHS-0093, See Exhibit IV) and return it immediately in the postage paid envelope to the Michigan Administrative Hearings System and Rules for the Department of Health and Human Services or fax it to (517) 334-9505.

**Medicaid Provider; Certificate of Need; Health Systems hearings required by Sections 20165, 20166, 20168, 21799(10), 21799b(2), and 21799c of the Public Health Code.**

At any time before the Director of DHHS issues a final decision, a party may withdraw its request for a hearing. The withdrawal must be in writing or on the record.

## 590 Dismissal

**Medicaid Beneficiaries; Mental Health Financial; Mental Health Transfers; WIC Participant; Healthy Michigan Plan Beneficiaries**

The MOAHR and Rules for the DHHS may dismiss a request for a hearing if the Appellant/AHR fails to appear at a scheduled hearing without good cause.

**Health Systems; Lead Abatement; Medicaid Provider; Certificate of Need; WIC Vendor**

An Appellant who fails to appear at the scheduled hearing, or fails to comply with Prehearing orders, waives the right to an administrative hearing and any other review to which he or she might be entitled, and such waiver shall constitute acceptance of the action the Department took or proposes to take. The hearing request will be dismissed.

## 600 Local Level Appeals (Medicaid Managed Care & PACE)

**Medicaid Managed Care Beneficiaries**

Medicaid beneficiaries participating in managed care are NOT required to exhaust MCO and PIHP level appeals before they request a hearing. Medicaid beneficiaries may process simultaneous appeals.

- Participant's grievance.

## 610 Women, Infants, and Children (WIC) Participant Local Hearings

The Department provides a hearing process through which any individual may appeal a Department or local agency action which results in a claim against the individual for repayment of the cash value of improperly issued benefits or results in the individual's denial of participation or disqualification from the program.

The Department provides a hearing at the local level and permits an individual to appeal a local agency decision to the MOAHR and Rules for the DHHS.

## 700 Proceedings Prior To Hearing

### **Pre-hearing Conferences**

#### **All Programs**

The presiding ALJ, upon a request of any party, or on his or her own motion, may order a pre-hearing conference for the purpose of facilitating the dispositions of the matter.

#### **Lead Abatement; Medicaid Beneficiaries; Mental Health Financial; Mental Health Transfer; WIC Vendor; WIC Participant, Healthy Michigan Plan Beneficiaries**

The ALJ's will **not** routinely conduct pre-hearing conferences.

#### **Medicaid Provider**

A pre-hearing conference with the ALJ is routinely scheduled for all provider hearings, **except** appeals of emergency suspensions and/or terminations of a provider's participation in the Medicaid program.

#### **Certificate of Need**

The Certificate of Need Rules at 1996 AACCS, R 325.9503(5) provide that the first day of the scheduled hearing shall be used for pre-hearings.

## **Preliminary or Bureau Conference**

### **Medicaid Providers**

Under the Medicaid Provider Hearing Rules, the provider agency may request a preliminary or bureau conference within 30 days of the DHHS's preliminary notice of negative case action. The provider agency has an opportunity to try to resolve the dispute with DHHS prior to filing an administrative hearing with MOAHR. Although MOAHR is not involved in the dispute resolution process at the preliminary or bureau conference level, the provider agency may file a request for an administrative hearing with MOAHR if the dispute is not resolved with the Department. The Department's action becomes final if no response is received from the provider agency within the 30 days the preliminary notice of negative case action.

## **800 Subpoenas**

### **Health Systems; Lead Abatement; Medicaid Beneficiaries; Medicaid Provider; Certificate of Need; WIC Vendor; WIC Participant; Healthy Michigan Plan Beneficiaries**

A subpoena may be requested when the Appellant/AHR or Department/DHHS Contract Agency requires:

- A person outside the Department to come to a hearing to testify; or
- A document from outside the Department to be offered as evidence in a hearing, only if not available voluntarily.

A subpoena may be requested by sending a written request to the MOAHR and Rules for the DHHS. This request must include:

- The case name
- The docket number
- The date and time the hearing is scheduled
- The name and address of the person whose testimony is required
- What document is to be subpoenaed
- Why the person's presence and/or the document is needed at the hearing





- How the person's testimony or the document relates to the hearing issue

The requestor is responsible for serving the subpoena.  
Allow adequate time to mail or hand-deliver the subpoena.

**Department staff is expected to participate in hearings without a subpoena when their testimony is required.**

If the Appellant/AHR or DHHS/DHHS Contract Agency staff responsible for presenting the hearing cannot arrange for the participation of a Department staff member, a memo may be sent to the Michigan Administrative Hearings System and Rules for the Department of Health and Human Services giving:

- The name and location of the employee;
- Why the employee's participation is needed, and
- How the employee's testimony relates to the hearing issue.

The MOAHR and Rules for DHHS will decide whether to require the employee's participation.

## 810 Motions

### **All Programs**

A party preparing to file motions is required to contact other parties involved in the case to attempt to resolve the matter prior to making a motion. Stipulations should be filed with the MOAHR and Rules for the DHHS whenever possible.

As far as practicable, Michigan Court Rule (MCR) 2.119 applies to motion practice before the MOAHR and Rules for the DHHS. No filing fees are required.

The MOAHR and Rules for the DHHS do not set aside a particular date or time to hear a motion. The MOAHR and Rules for the Department of Health and Human Services scheduling clerk must be contacted prior to filing and serving the motion to obtain a hearing date, if one is required. The party making the motion must file and serve appropriate notice of the **hearing on the motion.**



Dispositive motions will be heard the first day of the scheduled hearing unless the ALJ agrees to hear the motion on an earlier date.

**Exception:** The Certificate of Need rules require that all pre-hearing motions be heard on the first day of the scheduled hearing.

**For Health Systems hearings required by Sections 20165, 20166, 20168, 21799(10), 21799b(2), and 21799c of the Public Health Code**

1981 AACR, R 325.21919 governs motion practice.

## 820 The Hearing

### **Medicaid Managed Care Beneficiaries Fair Hearings Process**

Federal regulations provide a Medicaid beneficiary the right to an impartial review (fair hearing) by a state level ALJ, of a decision (action) made by the local agency or its agent.

- Medicaid beneficiary has the right to request a fair hearing when the PIHP/MCO or its contractor takes an “action”, or a grievance request is not acted upon within **60 calendar days**. The beneficiary does not have to exhaust local appeals before he/she can request a fair hearing.
- The agency must issue a written notice of action to the affected beneficiary. (See Section 300 for Notice information)
- The agency may not limit or interfere with the beneficiary’s freedom to make a request for a fair hearing.
- Beneficiaries are given **90 calendar days** from the date of the notice to file a request for a fair hearing.
- If the beneficiary, or representative, requests a fair hearing not more than **12 calendar days** from the date of the notice of action, the PIHP/MCO must reinstate the Medicaid services until disposition of the hearing by the administrative law judge.
- If the beneficiary’s services were reduced, terminated or suspended without advance notice, the PIHP/MCO must reinstate services to the level before the action.
- The parties to the state fair hearing include the PIHP/MCO, the beneficiary and his or her representative,

- or the representative of a deceased beneficiary's estate.
- Expedited hearings are available.

**Medicaid Beneficiaries; Mental Health Financial; Mental Health Transfer; WIC Participant, Healthy Michigan Plan Beneficiaries**

The DHHS/DHHS Contract Agency and Appellant will each present their position to the ALJ, who will determine whether the actions taken are correct according to fact, law, policy and procedure.

Following any opening statements, the ALJ will direct the DHHS/DHHS Contract Agency case presenter to explain the position of DHHS/DHHS Contract Agency. The hearing summary, or highlights of it, may be read into the record at this time. The hearing summary may be used as a guide in presenting the evidence, including the following in planning the case presentation:

- An explanation of the action(s) taken including all programs involved.
- The facts that led to the action.
- A summary of the policy or laws relied upon to take the action.
- Any clarifications by DHHS/DHHS Contract Agency staff of the policy or laws relied upon in taking the action.

Both the DHHS/DHHS Contract Agency and the Appellant/AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross examine adverse witnesses, and cross-examine the author of a document offered in evidence. Both parties have a right to present arguments without undue interference.

The ALJ must ensure that the record is complete, and may do any of the following:

- Take an active role in questioning of witnesses and parties.
- Assist either side to be sure all the necessary information is presented on the record.
- Order the hearing record to be left open to allow for the submission of evidence.
- Refuse to accept evidence that the ALJ believes is:
  - Unduly repetitious
  - Immaterial

- Irrelevant
- Incompetent
- Order a medical assessment to be added to the record at agency expense.

Either party may:

- State on the record its disagreement with the ALJ's decision to exclude evidence and the reason for the disagreement; and
- Object to evidence the party believes should not be part of the hearing record.

When refusing to admit evidence, the ALJ must state on the record the nature of the evidence and why it was not admitted. The ALJ may allow written documents to be admitted in place of oral testimony if the ALJ decides this is fair to both sides in the case being heard.

## 900 ALJ Decisions

### **ALL Programs**

- Decisions and Orders must be based exclusively on evidence introduced at the hearing.
- The record must consist only of:
  - The transcript or recording of testimony and exhibits, or an official report containing the substance of what happened at the hearing;
  - All papers and requests filed in the proceeding; and
  - The order of the ALJ.
- The decision must be in writing and must include:
  - Statement of facts;
  - The regulation, policy, statute, contract, case law supporting the decision; (Conclusions of Law)

- The reasons for the decision; and
- Identify supporting evidence.

## 910 Proposals for Decision

### **Medicaid Provider**

The ALJ will mail the proposal for decision to the parties, and each party shall have ten calendar days from the date of mailing of the proposed decision to file exceptions to DHHS.

### **Certificate of Need**

The ALJ shall serve the proposal for decision upon the parties by first-class or certified mail or by personal service. Each party shall have 20 days from the date of service of the proposal for decision to file exceptions or present written arguments.

Exceptions and written arguments shall be served on all parties, who shall have ten (10) days to file their replies to the exceptions and serve the replies on the parties.

Following review of the record or the proposal for decision, exceptions, and replies, if any, the Director of DHHS shall issue an order stating the findings of fact, conclusions of law, and determination of the appeal. DHHS shall serve copies of the order on all parties.

### **Health Systems hearings required by Sections 20165, 20166, 20168, 21799b (2), and 21799c of the Public Health Code**

After the conclusion of a hearing, the ALJ shall deliver, to the Director of the DHHS, the official case file and the ALJ's proposal for decision. The ALJ shall serve the proposal for decision upon the parties by first-class or certified mail or by personal service. Each party shall have ten (10) days from the date of service of the proposal for decision to file exceptions or present written arguments.

Following review of the record or the proposal for decision and exceptions thereto, and replies, if any, the Director shall issue an order stating the findings of fact, conclusions of law, and determination of the appeal. DHHS shall serve copies of the order on all parties.

If no exceptions are filed, the proposal for decision shall become the file order of DHHS unless the director issues her order within 90 days from the date of services of the proposal for decision.

## 920 Final Decision and Order

### **Health Systems hearings required by Section 21774 of the Public Health Code.**

The ALJ's decision and order is the final determination of DHHS.

### **Medicaid Beneficiaries; Lead Abatement; Mental Health Financial; Mental Health Transfers; WIC Participant; Healthy Michigan Plan Beneficiaries.**

The ALJ's decision and order is the final determination of DHHS.

If the DHHS fair hearing ALJ reverses a decision to deny authorization of services, and the beneficiary received the disputed services while the appeal was pending, the PIHP/MCO or the State must pay for those services in accordance with State policy and regulations.

### **Medicaid Provider hearings required under MCL 400.111f**

The ALJ's decision and order is the final determination of DHHS.

### **WIC Vendor**

The Final Order constitutes DHHS's final decision on the appeal. A copy of the Final Order shall be sent by certified mail or served personally upon the vendor. If the adverse action under review has not already taken effect, the Final Order becomes effective on the date of receipt of the Final Order.

## 1000 Computation of Time

If any filing deadline falls on a Saturday, Sunday or State holiday, the filing deadline shall be extended to the next business day.

## 1010 Certification of Compliance with the Judge's Order

### **Medicaid Beneficiaries; Healthy Michigan Plan Beneficiaries**

MOAHR for DHHS will send the decision and order to the Appellant/AHR and Hearings Coordinator. If the decision and order requires

implementation by DHHS or a DHHS Contract Agency, a DHHS-0107, Order Certification form, (Exhibit III), will be sent by MOAHR for DHHS with the decision and order to the Hearings Coordinator. The DHHS-0107 confirms the status of the decision and order's implementation; i.e., when the decision and order has or will be acted upon. It must be returned to MOAHR for DHHS within ten (10) calendar days of the decision and order mailing date.

Complete and return the DHHS-0107 (Exhibit III) within ten (10) calendar days of the mailing date on the hearing decision. Send it to the Michigan Administrative Hearings System and Rules for the Department of Health and Human Services to certify the status of implementation. Do this even when the implementation is not yet complete.

If implementation of the decision was incomplete when the yellow copy was sent to MOAHR for DHHS, fill out and mail the pink copy of the DHHS- 0107 when you complete implementation. This certifies the completion of implementation.

## 1020 Rehearing/Reconsideration

### **Medicaid Beneficiaries; Mental Health Financial; Mental Health Transfers; WIC Participants**

DHHS, a DHHS Contract Agency, or the Appellant/AHR may file a written request for a rehearing/reconsideration. MOAHR for DHHS will grant a rehearing/reconsideration request if it meets specific criteria.

For Medicaid beneficiaries, if it is not likely or possible to meet the mandatory 90-day time frame, MOAHR for DHHS will ask the Appellant to waive the timeliness requirement in writing to allow the Appellant a rehearing/reconsideration.

An Appellant's request for a rehearing/reconsideration must be sent directly to MOAHR for DHHS.

MOAHR for DHHS will grant a rehearing/reconsideration when it is believed that one of the following has occurred:

- There is newly discovered evidence or evidence that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision;





- Typographical errors, mathematical errors, or other obvious error in the hearing decision that affect the substantial rights of the Appellant;
- Failure of the ALJ to address other relevant issues in the hearing decision.
- The original hearing record is inadequate for purposes of judicial review.

DHHS Contract Agency staff or the Appellant/AHR may request a rehearing/reconsideration when it is believed that one of the above situations has occurred. The request shall expressly set forth the reasons for the request.

For Medicaid beneficiary cases, rehearing or reconsideration requests must be received by MOAHR for DHHS within 30 days of mailing of the hearing decision and order. For all other cases, request must be made within 60 days from the date of mailing of the hearing decision and order.

MOAHR for DHHS will either grant or deny a rehearing/reconsideration and send a written notice of the decision. If reconsideration is granted, the decision may be modified without further proceedings. If a rehearing is granted, or if there is a need for further testimony for purposes of reconsideration, the hearing shall be noticed and conducted in the same manner as an original hearing.

### **Medicaid Providers and Certificate of Need**

DHHS may order a rehearing on its own motion or on request of a party.

Where for justifiable reasons the record of testimony made at the hearing is found by the agency to be inadequate for purposes of judicial review, the agency on its own motion or on the request of a party shall order a rehearing.

A request for a rehearing shall be filed within 60 days of mailing of the final decision and order. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for agency reconsideration and for judicial review. A decision or order may be amended or vacated after the rehearing.



## 1100 List of Exhibits

Exhibit I	Request for Administrative Hearing form (DHHS-0092)
Exhibit II	Hearing Summary form (DHHS-0367)
Exhibit III	Order Certification form (DHHS-0107)
Exhibit IV	Hearing Request Withdrawal form (DHHS-0093)
Exhibit V	Forms Requisition form (DHHS-0646)

## 1120 How to Obtain Forms

To order Exhibit I – IV listed above, please complete a Forms Requisition (form DHHS-0646) (also see Exhibit V) and mail it to:

MOAHR/DHHS Forms Distribution  
PO Box 30763  
Lansing, MI 48909  
FAX: (517) 241-0146

To locate the DHHS Forms online, go to :

[www.michigan.gov/mdhhs](http://www.michigan.gov/mdhhs)

- Click ***Assistance Programs***
- Click ***Medicaid***
- See “**For Medicaid Enrollees and Medicaid Waiver Applicants who wish to Request a Fair Hearing to Appeal a Medicaid Service Decision.**”